

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ABCNY, Inc.,

Plaintiff,

-v-

AXIS SURPLUS INSURANCE COMPANY et al.,

Defendants.  
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23-CV-9094 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

On November 17, 2023, Defendants filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, it is hereby ORDERED that Plaintiff shall file any amended complaint by **December 8, 2023**. Pursuant to Paragraph 1.B. of the Court's Individual Rules and Practices in Civil Cases, available at <https://nysd.uscourts.gov/hon-jesse-m-furman>, any amended complaint should be filed with a redline showing all differences between the original and revised filing. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss.

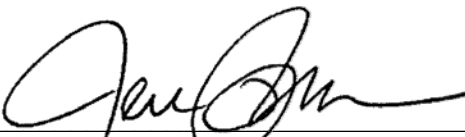
If Plaintiff does amend, by three (3) weeks after the amended complaint is filed, Defendants shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF stating that they rely on the previously filed motion to dismiss. If Defendants file an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot. If Defendants file a new motion to dismiss or indicate that they rely on their previously filed motion to dismiss, any opposition shall be filed within fourteen days, and any reply shall be filed within seven days of any opposition.

If no amended complaint is filed, Plaintiff shall file any opposition to the motion to dismiss by **December 8, 2023**. Defendant's reply, if any, shall be filed by **December 15, 2023**.

Finally, it is further ORDERED that the initial pretrial conference previously scheduled for November 29, 2023 is adjourned *sine die*. In light of that, the Court will hold off on setting discovery deadlines and endorsing the parties' proposed Case Management Plan, ECF No. 12, until the Court rules on Defendants' motion to dismiss.

SO ORDERED.

Dated: November 20, 2023  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge